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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

R.W., individually and on behalf of his  
marital community,

Plaintiff,

v.

COLUMBIA BASIN COLLEGE, a  
public institution of higher education,  
RALPH REAGAN, in his official and  
individual capacities, LEE THORNTON,  
in his official and individual capacities.

Defendants.

Cause No. 4:18-cv-05089-RMP

PLAINTIFF'S STATEMENT OF  
MATERIAL FACTS NOT IN  
DISPUTE IN SUPPORT OF  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT  
PURSUANT TO LCR 56.1

Pursuant to LCR 56.1, Plaintiff R.W. submit this Statement of Material Facts  
in support of the Motion for Summary Judgment.

No.	Fact Asserted	Evidentiary Support
1.	R.W. was a student enrolled at the nursing program at CBC in the Winter Quarter of 2017 and was in	Eisinger Decl., ECF No. 37-34, pgs. 5-6.

PLAINTIFF'S STATEMENT OF  
MATERIAL FACTS NOT IN DISPUTE - 1

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1		good standing.	
2	2.	R.W. had accumulated 177 credit hours at CBC and	Eisinger Decl., ECF
3		was one quarter from graduating with a degree in	No. 37-4, pg. 4.
4		nursing.	
5			
6	3.	During his enrollment, R.W. was a disabled person	Eisinger Decl., ECF
7		suffering from chronic back pain, epilepsy,	No. 37-24, pgs. 2; 5.
8		insomnia, anxiety and depression.	
9			
10	4.	CBC knew R.W. was disabled and provided R.W.	Eisinger Decl., ECF
11		with services through the Student Resources Center.	No. 37-23, pg. 1
12			
13	5.	In February of 2017, R.W. saw an increase in the	Eisinger Decl., ECF
14		frequency of his epileptic seizures which he	No. 37-24, pg. 5;
15		attributed to stress. These symptoms led to R.W.	Eisinger Decl., ECF
16		experiencing trouble sleeping and insomnia.	No. 37-12, pg. 1.
17			
18	6.	On February 28, 2017, R.W. contacted his primary	Eisinger Decl., ECF
19		care physician Dr. Michael Cabasug because R.W.	No. 37-12, pg. 1;
20		was having trouble with insomnia and was having	Eisinger Decl., ECF
21		violent thoughts regarding his instructors at CBC.	No. 37-22, pg. 10.
22			
23	7.	From February 28, 2017 to March 6, 2017, R.W.	Eisinger Decl., ECF
24		attended classes at CBC with no issues and did not	No. 37-12, pg. 1;
25		mention these thoughts to anyone at CBC or	Reagan Dep. 39:3 to

1	elsewhere.	39:14; Reagan Dep.
2		156:7 to 156:16;
3		Eisinger Decl., ECF
4		No. 37-25, pg. 1.;
5		Eisinger Decl., ECF
6		No. 26, pg. 3.
8		
9	<b>8.</b> R.W. met with Dr. Cabasug on March 6, 2017 and	Eisinger Decl., ECF
10	informed his physician of his thoughts about	No. 37-12, pg. 1;
11	hurting his instructors. Dr. Cabasug's chart note	Eisinger Decl., ECF
12	describes R.W.'s reporting of the circumstances	No. 37-24, pg. 5;
13	of the ideation as follows:	
14		
15	Does have a seizure disorder and is on Keppra.	
16	Has been having more episodes in the last	
17	several weeks. He attributes this to lack of	
18	sleep which is affected by his depression.	
19	Dr. Cabasug recommended a change in R.W.'s	
20	drug dosage and spoke with R.W. regarding	
21	techniques for managing stress.	
22	<b>9.</b> Dr. Cabasug referred R.W. to Lourdes, the	Eisinger Decl., ECF
23	Designated Crisis Responder for Benton and	No. 37-24, pg. 5;
24	Franklin Counties, for evaluation. While at Dr.	Eisinger Decl., ECF
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	Cabasug's office, R.W. met with a representative of	No. 37-27, pgs. 3-4.
	Lourdes and thereafter voluntarily admitted himself	
	to Lourdes Transition Center for inpatient mental	
	health treatment.	
	<b>10.</b> Lourdes contacted the Richland and Pasco Police	Eisinger Decl., ECF
	Departments regarding R.W.'s violent thoughts	No. 37-10, pgs. 2; 5-7;
	about his instructors at CBC.	
	<b>11.</b> The police contact was conveyed to CBC security	Eisinger Decl., ECF
	supervisor Levi Glatt and in-turn to Ralph Reagan.	No. 37-10, pgs. 9-12;
		Reagan Dep. 23:20 to
		24:12.
	<b>12.</b> Ralph Reagan is the Assistant Dean of Student	Reagan Dep. 7:15 to
	Conduct for CBC.	7:16.
	<b>13.</b> The communication viewed by Mr. Reagan prior to	Eisinger Decl., ECF
	issuing the interim trespass stated as follows:	No. 37-10, pg. 10;
	Levi,	Reagan Dep. 26:16 to
	At approximately 0800 hours 3/7/17, I was	26:23.
	contacted by Ofc. K. Erickson of PPD with the	
	following information.	
	PPD was contacted earlier today by Crisis	
	Response about CBC student [R.W.]. [R.W.]	
	admitted to having homicidal ideations toward	
	staff at CBC, talking about lighting offices on	
	fire and attacking people with saws. The	
	instructors specifically mentioned are Kim	

1		[T]ucker Valerie Topham and Alma Martinez.	
2		<u>[R.W.] is currently at Carondelet getting help</u>	
3		<u>and may not be an immediate threat</u> (emphasis added).	
4	14.	Carondelet is a common way to refer to Crisis	See Aronow Dep. 8:16
5		Response in the Tri-Cities because the DMHP,	to 8:24.
6		Lourdes Counseling Center, is located on	
7		Carondelet Drive in Richland.	
8			
9	15.	On March 7, 2017, Ralph Reagan issued a letter to	Eisinger Decl., ECF
10		R.W. trespassing R.W. on the basis that R.W.'s	No. 37-9, pg. 1.
11		communications to medical professionals	
12		constituted "Abusive Conduct" under the CBC	
13		Student Code of Conduct.	
14			
15			
16	16.	Ralph Reagan was aware that R.W. was receiving	Eisinger Decl., ECF
17		services for a disability from the Student Resource	No. 37-23, pg. 1.
18		Center before issuing the interim trespass letter to	
19		R.W.	
20			
21	17.	After R.W. was trespassed from CBC, R.W.'s	Compare Eisinger
22		instructors began falsifying reasons for his dismissal	Decl., ECF No. 37-5,
23		from the Nursing program.	pgs. 1-2 with Cooke
24			Dep. 85:13 to 85:16
25			

1		<i>and</i> 86:2 to 86:3;
2		Eisinger Decl., ECF
3		No. 37-6, pg. 1;
4		Eisinger Decl., ECF
5		No. 37-29, pg. 1;
6		Eisinger Decl., ECF
7		No. 37-30, pg. 1.
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9		
10	<b>18.</b>	R.W.'s instructor Valerie Cooke (Topham) had a
11		"complete meltdown" after speaking with law
12		enforcement regarding R.W. seeking mental health
13		treatment for his violent ideations.
14		
15	<b>19.</b>	Ms. Cooke (Topham) generated academic progress
16		alerts after learning of R.W.'s ideation stating that
17		R.W. was showing a lack of effort, lack of
18		progression/critical thinking and low examination
19		scores.
20		
21		
22	<b>20.</b>	The day after the interim trespass, on March 8,
23		2017, nursing program director Kim Tucker filled
24		out a "Nursing Student Discontinuation Form"
25		stating that R.W. was discontinued from the

1	program based on “incomplete winter quarter	
2	trespassed from campus.”	
3		
4	<b>21.</b> On March 8, 2017, Ms. Tucker drafted a letter	Eisinger Decl., ECF
5	(which ultimately was never sent) to R.W.	No. 37-31, pg. 1;
6	dismissing R.W. from the nursing program	Eisinger Decl., ECF
7	immediately and permanently based on his breach of	No. 37-29, pg. 1.
8	“professionalism standards as a nursing student,”	
9	citing R.W.’s communications with his medical	
10	providers.	
11		
12		
13	<b>22.</b> Ralph Reagan expressed his agreement with Kim	Eisinger Decl., ECF
14	Tucker that R.W. should be dismissed from the	No. 37-30, pg. 1.
15	program based on professionalism concerns.	
16		
17	<b>23.</b> On March 8, 2017, Ralph Reagan began an	Eisinger Decl., ECF
18	investigation of the violation of the Student Code of	No. 37-11, pg. 1.
19	Conduct Mr. Reagan alleged that R.W. had	
20	undertaken.	
21		
22	<b>24.</b> On March 10, 2017, R.W. sent Reagan an e-mail	Eisinger Decl., ECF
23	asking for the interim trespass to be lifted so that	No. 37-12, pg. 1.
24	R.W. could resume his classes.	
25		
	<b>25.</b> On March 13, 2017, the CBC nursing facility staff	Eisinger Decl., ECF

1		were told that R.W. would not be returning to the	No. 37-32, pg. 1.
2		nursing program.	
3			
4	26.	On March 14, 2017, the Student Appeal Board	Eisinger Decl., ECF
5		affirmed the interim trespass.	No. 37-13, pg. 1.
6	27.	On March 22, 2017, Mr. Reagan met with R.W. and	Eisinger Decl., ECF
7		counsel for R.W. regarding the alleged violation.	No. 37-22, pg. 7;
8			Reagan Dep. 148:1 to
9			148:7.
10			
11	28.	At the March 22, 2017 meeting, Ralph Reagan	Eisinger Decl., ECF
12		requested full access to R.W.'s medical records.	No. 37-22, pg. 7;
13			Reagan Dep. 148:1 to
14			148:7.
15			
16	29.	On March 22, 2017, R.W. sought additional review	Eisinger Decl., ECF
17		of the interim trespass from CBC's president Lee	No. 37-14, pgs. 1-2.
18		Thornton.	
19			
20	30.	The President of CBC is the final decision maker in	WAC § 132S-100-
21		regard to violations of the Student Code of Conduct	415(5)(c)(iii).
22			
23	31.	On April 19, 2017, CBC interim president Lee	Eisinger Decl., ECF
24		Thornton modified the trespass to exclude the Pasco	No. 37-15, pg. 1.
25		CBC campus but the trespass restriction regarding	



1		the Richland campus remained in place.	
2	32.	The nursing program is located at the Richland	Reagan Dep. 59:11 to
3		campus of CBC.	59:15.
4			
5	33.	Ralph Reagan reviewed the medical records	Eisinger Decl., ECF
6		thoroughly, creating a detailed table of contents of	No. 37-21, pgs. 1-4;
7		the records, noting private conversations between	Reagan Dep. 115:21 to
8		R.W. and his physician, including events unrelated	115:22.
9		to R.W.'s health such as seeking treatment for	
10		diarrhea.	
11			
12			
13	34.	After reviewing the records, Ralph Reagan	Eisinger Decl., ECF
14		concluded that the health care providers had	No. 37-22, pgs. 11-12;
15		determined that R.W. was not a threat to others	Reagan Dep. 148:1 to
16		before he was released from voluntary treatment and	148:7;
17		that he was continuing with outpatient mental health	
18		treatment.	
19			
20	35.	Following the meeting between R.W. and Ralph	Eisinger Decl., ECF
21		Reagan, on March 29, 2017, R.W.'s treating	No. 37-32, pg. 1.
22		physician Dr. Cabasug drafted correspondence "to	
23		whom it may concern" affirming that R.W. had	
24		never demonstrated aggressive behavior or language	
25			

1	since Dr. Cabasug began treating R.W. and that the	
2	incident was very out of character.	
3		
4	<b>36.</b> Ralph Reagan attributed R.W.s' violent ideations	Eisinger Decl., ECF
5	disclosed to his medical providers to R.W.'s	No. 37-35, pg. 1;
6	disabilities.	Reagan Dep. 175:5 to
7		175:14.
8		
9	<b>37.</b> On April 20, 2017, after completing his	Eisinger Decl., ECF
10	investigation, Ralph Reagan found R.W. responsible	No. 37-16, pgs. 1-2.
11	for violating CBC's policy on Abusive Conduct and	
12	sanctioned R.W. for the violation.	
13		
14	<b>38.</b> "Abusive Conduct" is defined in the CBC Student	WAC § 132S-100-
15	Code of Conduct as:	125.
16	Physical and/or verbal abuse, threats,	
17	intimidation, harassment, online harassment,	
18	coercion, bullying, cyberbullying, retaliation,	
19	stalking, cyberstalking, and/or other conduct	
20	which threatens or endangers the health or	
21	safety of any person or which has the purpose	
22	or effect of creating a hostile or intimidating	
23	environment.	
24	<b>39.</b> Ralph Reagan found that R.W.'s conversation with	Eisinger Decl., ECF
25	his physician was abusive conduct which created "a	No. 37-16, pgs. 1-2.
	hostile or intimidating environment" at CBC.	

1	<b>40.</b>	When asked to identify the specific “conduct” that	Reagan Dep. 156:7 to
2		occurred, Mr. Reagan identified the thoughts in	156:12.
3		R.W.’s head as the violative “conduct.”	
4			
5	<b>41.</b>	On May 4, 2017, R.W. appealed to the Student	Eisinger Decl., ECF
6		Appeal Board requesting review of the finding of	No. 37-17, pgs. 1-3.
7		misconduct.	
8			
9	<b>42.</b>	On May 24, 2017, the Student Appeal Board	Eisinger Decl., ECF
10		affirmed the finding of misconduct.	No. 37-18, pg. 1.
11			
12	<b>43.</b>	On June 7, 2017, R.W. appealed to the President of	Eisinger Decl., ECF
13		CBC regarding the finding.	No. 37-19, pgs. 1-3.
14			
15	<b>44.</b>	On June 12, 2017, CBC President Lee Thornton	Eisinger Decl., ECF
16		affirmed the finding of misconduct and the sanctions	No. 37-20, pgs. 1-4.
17		therein.	
18			
19	<b>45.</b>	As the President of CBC, Lee Thornton had the	WAC § 132S-100-
20		authority as the final decisionmaker in regard to the	415(5)(c)(iii).
21		appeal and sanctions.	
22	<b>46.</b>	Columbia Basin College is a public institution	WAC §132S-01-015
23		established by the State of Washington.	
24			

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1 DATED: June 3, 2019.

2  
3 s/Bret Uhrich

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**Certificate of Service**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of June 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Carl P. Warring: [carlw@atg.wa.gov](mailto:carlw@atg.wa.gov)

*s/Bret Uhrich*

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